



Interoffice Memorandum

June 14, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development
Services Department

CONTACT PERSON: David D. Jones, P.E., CEP, Manager
Environmental Protection Division
(407) 836-1406

A handwritten signature in black ink, appearing to be "DJ", located to the right of the contact person information.

SUBJECT: June 22, 2021 – Public Hearing
Appeal of the Environmental Protection Commission
Recommendation for a Request for Waiver to Side-Setbacks
for the Majid Heydari Dock Construction Permit (BD-20-04-
070)

On April 30, 2020, the applicant, Majid Heydari, submitted a Dock Construction Permit Application, including site plans and an Application for Waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) (side setback). The project site is located at 11533 Waterstone Loop Drive, Windermere, FL 34786; Parcel ID number 24-23-27-9009-00-130. The subject property is located adjacent to Lake Butler in District 1. A location map is included as Page 4 of the Environmental Protection Commission (EPC) Staff Report (**Exhibit 1**).

A copy of the Application to Construct a Dock is included as **Exhibit 2**. The applicant submitted several revised plans, with the final site plan dated as received on December 8, 2020. The final site plan is included as Page 5 of the EPC Staff Report. The applicant is requesting a reduction of the required side setback from 25 feet to one foot from the southern projected property line and 1.1 feet from the northeastern real property line.

There is no open Environmental Protection Division (EPD) enforcement action on the property. However, there was a case (#19-554703) in September 2019 related to unauthorized clearing of shoreline vegetation. The applicant replanted the shoreline and paid an administrative penalty. The case was closed on March 5, 2020.

Side Setback Waiver Request Analysis

Pursuant to Section 15-343(b), "On lots or parcels having a shoreline frontage of seventy-five (75) feet or greater, docks shall have a minimum side setback of twenty-five (25) feet from the projected property line, unless such requirement is reduced by an appropriate waiver which shall be reviewed by the environmental protection division." Further, Section 15-323 defines projected property lines as "a continuation of, and extension to, the upland property line." Thus, for the purposes of determining the setback requirements

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and placement of the dock, property lines are projected in a straight line into the lake from the point where the upland property line intersects with the Normal High Water Elevation (NHWE).

The applicant's parcel has a shoreline measuring approximately 122.06 feet along the NHWE. Therefore, the required side setback is 25 feet from the projected property lines. The applicant is requesting a side setback of one foot from the southern projected property line and a side setback of 1.1 feet from the northeastern real property line.

Pursuant to Section 15-350(a)(2), *"the applicant shall describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners."*

To address Section 15-350(a)(2)(1), the applicant's agent, Ms. Sheila Cichra, states, *"The reduced setback is required in order to construct the terminal platform over the only available open water, therefore granting the waiver would result in the least impact to the environment."*

To address Section 15-350(a)(2)(2), Ms. Cichra states, *"The proposed structure will not adversely affect the adjacent property owner's view or navigability. The adjacent dock is on the far side of the South [sic] neighbor's lot and the proposed terminal platform will be screened from that house, due to the trees and heavy aquatic vegetation in the conservation area."*

A copy of the Application for Waiver is included as Page 6 of the EPC Staff Report.

Objections

On July 24, 2020, a letter of objection was received from the southern affected neighbor, Gregory Merk, who owns the property at 11527 Waterstone Loop Drive. A copy of this objection can be found on Pages 8-16 of the EPC Staff Report.

On September 29, 2020 and January 8, 2021, EPD received letters of objection from the northeastern affected neighbors, James and Dian Phillips, who reside at 1475 Kelso Boulevard and who also own the property to the west (Parcel No. 24-23-27-0000-00-053) on Kelso Boulevard. A copy of the Phillips' objection letters can be found on Pages 17 and 18 of the EPC Staff Report.

On September 30, 2020 and December 24, 2020, EPD received letters of objection from another neighbor, Scott McIver, who resides at 11521 Waterstone Loop Drive (two lots south of the applicant). A copy of his objection letters can be found on Pages 19-24 of the EPC Staff Report.

On January 3, 2021, EPD received a letter of objection from Garrett Kenny who resides at 11545 Waterstone Loop Drive (two lots north of the applicant). A copy of his objection can be found on Page 25 of the EPC Staff Report.

June 22, 2021

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On January 15, 2021, EPD received a letter of objection from James and Patricia Phillips who reside at 1476 Kelso Boulevard stating that they are opposed to the waiver. A copy of the objection can be found on Page 26 of the EPC Staff Report.

On January 15, 2021, EPD received a letter of objection from Albert and Cathy Curnan who reside at 1474 Kelso Boulevard. A copy of the objection can be found on Page 27 of the EPC Staff Report.

On February 23, 2021, EPD received a letter of objection from Anna Long, representing Gregory Merk and James and Dian Phillips (**Exhibit 3**).

A map showing the location of the applicant and objectors is included as **Exhibit 4**.

Section 15-350 – Variance and Waiver

Section 15-350(b) *Procedure* states: “*Except as otherwise provided in section 15-343(b), the environmental protection officer shall make a recommendation to approve, deny, or approve with conditions a variance or waiver application to the environmental protection commission. The environmental protection commission shall render to the board a recommendation to approve, approve with conditions, or deny the variance or waiver application. The recommendation of the environmental protection commission shall be provided to the board within twenty-one (21) days, provided that if no meeting is scheduled within the twenty-one day period, then the recommendation shall be presented at the first meeting of the board following the expiration of the 21-day period. The board may accept the recommendation or call for a public hearing.*”

On February 24, 2021, the EPC held a duly noticed public hearing. The following is a summary of the proceedings:

- EPD provided a presentation to EPC with the recommendation of the Environmental Protection Officer (EPO) to deny the waiver to Section 15-343(b) (side setback) based on a finding that the applicant has not demonstrated that there will be no negative effect on the abutting shoreline owners pursuant to Section 15-350(a)(2), as objections have been received. A copy of the EPC Staff Report is provided as **Exhibit 1**.
- Sheila Cichra with Streamline Permitting and Mary Solik Esquire with Doty Solik Law, P.A., spoke in favor of the request.
- Majid Heydari, the applicant, spoke in favor of the request.
- Anna Long, Esquire, with Dean, Mead, Egerton, Bloodworth, Capauano & Bozarth, P.A., spoke against the request on behalf of Gregory Merk and James and Dian Phillips.

Based on testimony and discussion during the hearing, the EPC voted to overturn the recommendation of the EPO and made a finding that the waiver request was consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2) and

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recommended approval of the request for waiver to Section 15-343(b) to reduce the side setback distance from 25 feet to one foot from the southern projected property line and 1.1 feet from the northeastern real property line for the Majid Heydari Dock Construction Permit BD-20-04-070. The motion passed five to one. A copy of the EPC Recommendation Letter is attached as **Exhibit 5**.

Section 15-349 – Appeals from decisions of environmental protection officer

Section 15-349(b) states, "*Parties who have previously filed written objections and whose substantial interests are adversely affected by the recommendation of the environmental protection commission may appeal to the board within ten days of the rendering of the recommendation. The appeal shall be filed with the environmental protection officer and shall be scheduled for a public hearing before the board. The notice of the appeal will be provided to the applicant and to parties who have previously objected in writing. The board may affirm, reverse, or modify the decision of the environmental protection commission. The decision of the board shall be final.*"

On March 4, 2021, Gregory Merk and James and Dian Phillips, represented by Anna Long, submitted an appeal of the decision of the EPC to overturn the recommendation of the EPO, pursuant to Orange County Code, Chapter 15, Article IX, Section 15-349(b). The Orange County Attorney's Office confirmed that the appeal was timely and complete. The appeal is included as **Exhibit 6**.

On April 7, 2021, the appellants, the applicant, Anna Long, Mark Solik, Sheila Cichra, Chris Prunty (the applicant's dock contractor), and the objectors were sent notices to inform them of the public hearing of the appeal before the Board.

ACTION REQUESTED: To affirm, reverse, or modify the recommendation of the Environmental Protection Commission to approve the waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) (side-setback) to reduce the minimum side setback from 25 feet to one foot from the southern projected property line and 1.1 feet from the northeastern real property line for the Majid Heydari Dock Construction Permit BD-20-04-070. District 1

DDJ/JW: dj

Exhibits:

- Exhibit 1: Environmental Protection Commission Staff Report
- Exhibit 2: Application to Construct a Dock
- Exhibit 3: Gregory Merk and James and Dian Phillips Objection, Anna Long
- Exhibit 4: Appellants, Applicant, and Objectors Location Map
- Exhibit 5: Environmental Protection Commission Recommendation Letter
- Exhibit 6: Gregory Merk and James and Dian Phillips (Anna Long, Esq.) Appeal of the Decision of EPC



Interoffice Memorandum

February 5, 2021

To: Environmental Protection Commission

From: David D. Jones, P.E., CEP, Manager
Environmental Protection Division

A handwritten signature in black ink, appearing to be "DJ", located to the right of the "From:" field.

Subject: **Majid Heydari Request for a Waiver for Dock Construction Permit BD-20-04-070**

****This public hearing was continued from the September 30, 2020, October 28, 2020, and the January 27, 2021 meetings of the Environmental Protection Commission (EPC). On December 30, 2020 the applicant requested a continuance to the February 24, 2021 EPC meeting; however, the EPC had already continued the public hearing to January 27, 2021 during their meeting on December 9, 2020.*

Reason for Public Hearing

The applicant, Majid Heydari, is requesting a boat dock construction permit with approval of a waiver to Orange County Code (Code), Chapter 15, Article IX, Section 15-343(b) (side setback).

Location of Property/Legal Description

The project site is located at 11533 Waterstone Loop Drive, Windermere, FL 34786, which has a Parcel ID number of 24-23-27-9009-00-130. The subject property is located adjacent to Lake Butler in District 1.

Background

On April 30, 2020, the Environmental Protection Division received an Application to Construct a Dock on the subject property. Subsequently, the Environmental Protection Division (EPD) received a revised application on May 16, 2020 to construct a 908 square foot dock with a negative (-) 36.48 foot setback from the southern projected property line. Included with the application was an Application for Waiver to Section 15-343(b) to authorize a side setback of negative (-) 36.48 feet across the southern projected property line where Mr. Gregory Merk is the adjoining property owner (11527 Waterstone Loop Drive), and 1.1 feet from the intersecting real property line of a parcel to the northeast owned by James and Dian Phillips (Parcel ID 24-23-27-0000-00-053).

On December 8, 2020, EPD received a revised Application for Waiver to Section 15-343(b). The revised site plans accompanying the waiver application indicate that the applicant is proposing to reduce the size of the terminal platform of the dock to 576 square feet. In addition, the revised plans call for repositioning the dock such that the side setback would be one foot from the adjoining southern projected property line and 1.1 feet from the intersecting real property line of the parcel to the northeast.

Public Notifications

On June 8, 2020, a Notice of Application for Waiver was sent to the affected adjacent shoreline owners. On December 21, 2020, a new Notice of Application for Waiver was sent to the waterfront property owners within a 300-foot radius of the project site.

In addition, a revised Notice of Public Hearing was sent to the applicant, the applicant's agent, the attorneys of record, and the objectors, on January 5, 2021 to inform them of the Environmental Protection Commission meeting on January 27, 2021.

Side Setback Waiver

Chapter 15, Article IX, Section 15-343(b) of the Code states, "On lots or parcels having a shoreline frontage of seventy-five (75) feet or greater, docks shall have a minimum side setback of twenty-five (25) feet from the projected property line, unless such requirement is reduced by an appropriate waiver which shall be reviewed by the environmental protection division." The applicant has a shoreline that measures approximately 129 feet at the Normal High Water Elevation (NHWE), requiring a minimum side setback of 25 feet.

The applicant is requesting a side setback of one foot from the southern projected property line and a side setback of 1.1 feet from the northeastern real property line. Pursuant to Section 15-350(a)(2), "the applicant shall describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners."

To address Section 15-350(a)(2)(1), the applicant's agent, Ms. Sheila Cichra, states, "*The reduced setback is required in order to construct the terminal platform over the only available open water, therefore granting the waiver would result in the least impact to the environment.*"

To address Section 15-350(a)(2)(2), Ms. Cichra states, "*The proposed structure will not adversely affect the adjacent property owner's view or navigability. The adjacent dock is on the far side of the southern neighbor's lot and the proposed terminal platform will be screened from that house, due to the trees and heavy aquatic vegetation in the conservation area.*"

Objections

On July 24, 2020, a letter of objection was received from the southern affected neighbor, Mr. Merk who owns the property at 11527 Waterstone Loop Drive. His letter states that 11533 Waterstone Loop is not a lakefront lot and that the survey showing the NHWE going across Mr. Heydari's property and the next few parcels is incorrect. Mr. Merk also states in his objection that the proposed structure would infringe on his property and that the taxes are not the same for the two properties, which he cites as evidence that Mr. Heydari does not have a "waterfront" lot.

On September 29, 2020 and January 8, 2021, EPD received letters of objection from the northern affected neighbors, Mr. and Mrs. James and Dian Phillips, who reside at 1475 Kelso Boulevard and who also own the property to the west (PID 24-23-27-0000-00-053) with no specific street address on Kelso Boulevard. Their letters state that the proposed dock would be directly in front of their property and that it would devalue their land for future use. Attorney Ms. Anna Long with Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A. has been retained to represent Mr. and Mrs. Phillips and Mr. Merk.

On September 30, 2020 and December 24, 2020, EPD received letters of objection from another neighbor, Mr. McIver, who resides at 11521 Waterstone Loop Drive (two lots south of the applicant). His letters state that the Heydari lot is not waterfront and that Mr. Heydari has not paid taxes on his property to indicate that it is a waterfront lot. Mr. McIver also states that if the lake were to ever dry up or a drawdown needed, that the dock would be on Mr. Phillips property.

On January 3, 2021, EPD received a letter of objection from Mr. Garrett Kenny, who resides at 11545 Waterstone Loop Drive (two lots north of the applicant). Mr. Kenny states that the Heydari dock would potentially block his access to Lake Butler. However, it should be noted that per the Declaration of Covenants, Conditions, Easements, and Restrictions for the Waterstone subdivision (recorded in Book 10074, Page 6513), Mr. Kenny's parcel (Lot 15) is not defined as a "Lakefront Lot" and does not have rights to construct a dock.

On January 15, 2021, EPD received a letter of objection from Mr. and Mrs. James and Patricia Phillips who reside at 1476 Kelso Boulevard stating that they are opposed to this waiver.

On January 15, 2021, EPD received a letter of objection from Mr. Albert Curnan and Ms. Cathy Curnan who reside at 1474 Kelso Boulevard stating that they are in opposition to a boat dock on this property as it does not appear to be a lakefront lot.

Enforcement Action

There is no current enforcement action for this property related to the proposed boat dock. However, there was a case (#19-554703) in September 2019 related to unauthorized clearing of shoreline vegetation that has since been resolved. The applicant replanted the shoreline and paid an administrative penalty. Accordingly, the case was closed on March 5, 2020.

Staff Recommendation

Staff has evaluated the waiver request for compliance with the criteria for approval. The recommendation of the Environmental Protection Officer is to deny the waiver to Section 15-343(b) (side setback) based on a finding that the applicant has not demonstrated that there will be no negative effect on the abutting shoreline owners pursuant to Section 15-350(a)(2)(2), as objections have been received.

ACTION REQUESTED: Acceptance of the findings and recommendation of the Environmental Protection Officer, and make a finding that the request for waiver is not consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2)(2) and recommend denial of the request for waiver to Section 15-343(b) to reduce the side setback distance for the Majid Heydari Dock Construction Permit BD-20-04-070. District 1.

RB/NT/TMH/ERJ/DJ: mg

Attachments

Dock Construction Application for Waiver

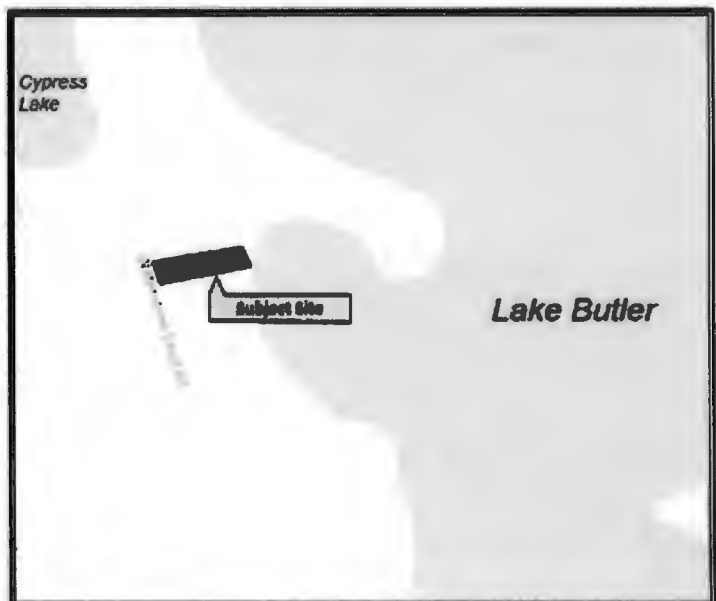


Dock Construction Application for Waiver
BD-20-04-070
District #1

Applicant: Majid Heydari
Address: 11533 Waterstone Loop Dr.
Parcel ID No.: 24-23-27-9009-00-130

Project Site 

Property Location 





APPLICATION TO CONSTRUCT A BOAT DOCK
APPLICATION FOR WAIVER

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2))

Mall or Deliver To: Orange County Environmental Protection Division
800 Mercy Drive, Suite 4
Orlando, Florida 32808
(407) 836-1400, Fax (407) 836-1499

I Sheila Cichra on behalf of Majid Heydari (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(2) am requesting a waiver to section (choose and circle from the following: 15-342(b), 15-343(b), 15-344(a) and 15-345(a)) of the Orange County Dock Construction Ordinance.

1. Describe how this waiver would not negatively impact the environment:

The reduced setback is required in order to construct the terminal platform over the only available open water, therefore granting the waiver would result in the least impact to the environment.

2. Describe the effect of the proposed waiver on abutting shoreline owners:

The proposed structure will not adversely affect the adjacent property owner's view or navigability. The adjacent dock is on the far side of the South neighbor's lot and the proposed terminal platform will be screened from that house, due to the trees and heavy aquatic vegetation in the conservation area.

The environmental protection officer and the board may require of the applicant information necessary to carry out the purposes of this article.

By signing and submitting this application form, I am applying for a waiver to the Section indicated of the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, or local permits prior to commencement of construction. I understand that knowingly making any false statements or representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code.

Name of Applicant: Sheila Cichra
Signature of Applicant/Agent [Signature] Date: 11/04/2020
Corporate Title (if applicable): President, Streamline Permitting, Inc.

FREQUENTLY ASKED QUESTIONS

Q: How can I provide questions or comments about the application or speak during the EPC Public Hearing?

The scheduled EPC public hearing will be held "in person" at the Orange County Environmental Protection Division, 3165 McCrory Place, Suite 200, Orlando, Florida 32803, and "virtually" utilizing communications media technology, with the latter made permissible pursuant to Governor Ron DeSantis's Emergency Executive Order No. 20-69 related to the Covid-19 state of emergency, as it may be amended.

Information on Attending or Observing the Meeting:

The members of the EPC will participate from different locations via WebEx © (See <https://www.webex.com> for more information). The meeting will be hosted by the chairperson or vice-chairperson of the EPC, a quorum will be maintained during the meeting, and the meeting will be conducted and operated by Orange County Government.

The meeting will also be held at the Orange County Environmental Protection Division, 3165 McCrory Place, Suite 200, Orlando, Florida 32803. Orange County staff will be present to ensure that social distancing and other health and safety measures are practiced and enforced.

Information on Providing Public Comments or Questions Regarding this Specific Case:

Written comments or questions may be submitted five different ways: (1) by filling out the form at the end of this notice and returning it to Orange County via mail, fax or e-mail, (2) by contacting the project manager listed on the front of this notice, (3) by e-mailing your comments/questions to wetlandpermitting@ocfl.net, (4) by mailing your comments/questions to "Orange County Environmental Protection Division, 3165 McCrory Place, Suite 200, Orlando Florida 32803", or (5) by faxing your comments/questions to (407) 836-1499.

Information on Providing Testimony or Participating in this Hearing:

Members of the public who would like to provide testimony during the hearing for this case may utilize one of two options:

- The person may join and participate in the meeting through the video section of WebEx found in the link in the County Calendar at <https://www.ocfl.net/Home/CountyCalendar.aspx>; or
- The person may attend the meeting in person at the second floor of the Orange County Environmental Protection Division Office at 3165 McCrory Place, Orlando, Florida 32803.

Please note the EPC members will not be physically present. The person will communicate virtually with the EPC members from a kiosk equipped with a laptop, where the person will see and hear the EPC members and the EPC members will see and hear the person. Also, please note that the time allotted to each individual for testimony will be at the sole discretion of the EPC Chairperson, and may be reduced from the normal time limit of three minutes, depending on the number of speakers. Orange County staff will be present to assist at the kiosk and to ensure that social distancing and other health and safety measures are practiced and enforced.

If a person is unable to attend the EPC meeting in person or access the WebEx meeting via a computer, please call Liz Johnson, Assistant Manager, Orange County Environmental Protection Division, at 407-836-1511 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays, not later than 24 hours before the meeting, so that she can determine with the person whether other arrangements are feasible.

MAIL, FAX, OR EMAIL TO:

Orange County Environmental Protection Division, 3165 McCrory Place, Suite 200,
Orlando, Florida 32803
Phone # (407) 836-1489 - Fax # (407) 836-1499
E-Mail Address: wetlandpermitting@ocfl.net

APPLICANT: Majid Heydari
PROJECT NO.: BD-20-04-070

IN FAVOR OPPOSED

Your Information
Name: Anna H. Long, Attorney
Address: 420 S. Orange Ave., Suite 700
Phone: 407-841-1200 x 5120
Email: along@deanmead.com

Commentary:
As Authorized Agent for:
Gregory and Daniela Merk, adjacent property owners, 11520 Waterstone Loop Dr.,
Please find this correspondence in opposition to any requested variance to allow for a boat dock for the subject project (BD-20-04-070).

Bowden, Rebecca L

From: Merk, Gregory <Gregory.Merk@nordson.com>
Sent: Friday, July 24, 2020 1:04 PM
To: Bowden, Rebecca L
Subject: Boat Dock Application for Waver 11533 Waterstone Loop Dr.
Attachments: 11527 Waterstone Loop Dr.pdf; 11533 Waterstone Loop Dr.pdf; Waiver Request w comments.pdf; Waiver Request.pdf

Attn: Rebecca Bowden
Ref: Application No. BD-20-04-070

From: Gregory Merk (Owner 11527 Waterstone Loop Drive; adjacent property)

Hello Mrs. Bowden,

In response to the request for a waiver for 11533 Waterstone Loop Drive Windermere Florida cited above, I would contest. This waiver, and the construction of a dock at this address does not make sense to me for a variety of reasons that I will attempt to outline below. While I am not an expert in environmental protection/legislation nor property rights in Florida, I believe that permitting this dock would infringe on both-

- 11533 is not a lakefront lot (defined as residential lot in title while all others are defined as waterfront)
- Requested dock would be directly in my projected property line
- Secondary effect would be reduction of my property value
 - I paid more than 2x for my property as it is lakefront
 - My property taxes are more than 2x that of 11533 Waterstone Loop Drive
- I believe that initial survey of waterline is not correct as over the many years of owning my property I have never seen the water rise to where defined. I would be willing to pay for new survey as needed
- With no lakefront property the dock lands squarely in the front of two other properties: Mine and 1475 Kelso Blvd (James Phillips)
- Long walkway to dock would destroy the grassy wetland in lake cove
- Would be an eyesore on lake disturbing other properties
- Dock and dock path would both need waivers as they would go over or be too close to property line neither of which the abutting property (11520 Waterstone Loop Drive) will approve

For the reasons below and more, I ask that you not approve the requested construction. It just does not make sense and infringes on others investments/use/rights as well as the environment.

Below more notes and thoughts. Please feel free to contact me as needed.

Gregory Merk

Home: 407-217-2668
Cell: 440-318-4076
11520 Waterstone Loop Drive
Windermere FL, 34786

There is no shore line so the dock cannot possibly exist-

Sec. 15-342. - Conditions for issuance of dock construction permits.

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To obtain a dock construction permit, the following criteria must be satisfied:

- (a) The dock shall extend only to the point where reasonable water depth for vessel mooring maximum water depth allowed for mooring areas is five feet, as measured from the NH natural conditions of the water body necessitate a greater water depth to allow reasonable conditions. The dock shall not adversely affect the rights of other persons and property and access to, the water body. No work should be done within areas, which constitute egress or egress or for drainage unless authorized by the county. Under no circumstances for construction of a dock be utilized to construct any facilities to be used for residential or other non-water dependent activities.
- (b) The maximum square footage of the terminal platform shall not exceed the square foot the linear shoreline frontage for the first seventy-five (75) feet of shoreline and five times shoreline frontage for each foot in excess of seventy-five (75) feet, not to exceed a maximum of one thousand (1,000) square feet.

◀ § 15-322. Policy, purpose, intent and scope. ▶

Latest version

- (a) An intent of the board of county commissioners is to protect and enhance the county's water bodies so that the recreational uses of those waters such as swimming, boating, and fishing.
- (b) Water bodies in the county provide important habitat and functions to fish and wildlife. Orange County's water bodies are productive in the maintenance and preservation of aquatic plants and animals. Additionally, these littoral areas stabilize the water column, as well as stabilize soils affected by wave action and erosional forces.
- (c) Dock construction involves activities that may cause pollution to water bodies. Additionally, activities associated with dock construction may affect the water quality and functions of water bodies.
- (d) A purpose of this article is to regulate dock construction, which for the purposes of this article includes dock repair, in order to minimize adverse impacts of such activities upon the natural resources of the county. The county may adopt provisions of this article in areas not described in this paragraph upon execution of an interlocal agreement by the county and another local government.
- (e) A purpose of this article is to regulate the construction of docks such that the navigation of water bodies is not unduly impeded.
- (f) The intent of the board of county commissioners is to apply these regulations in a manner sensitive to the riparian rights and other property rights of [REDACTED] and the rights of the public to the water bodies in the county.
- (g) The board of county commissioners recognizes that the cumulative and secondary impacts of docks may adversely affect the functions the water bodies provide to fish and other wildlife. The reduction in water quality and functions may also result in a reduction in the recreational value of the water body. Therefore, it is the intent of the board of county commissioners and the purpose of this article to regulate dock construction in a manner that addresses cumulative [REDACTED] impacts.
- (h) The intent of the board of county commissioners is that the environmental protection officer shall be responsible for enforcing the provisions of this article.

(Ord. No. 2004-08, § 2, 5-18-04)

1. Not a waterfront property owner
2. Secondary impact is reduction in 11527 property value after paying significantly more for same land mass due to lakefront rights

◀ § 15-323. Definitions. ▶

Latest version:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates otherwise.

Access walkway means that portion of the dock that commences on the upland parcel and terminates at the junction with the terminal platform.

Board means the Board of County Commissioners of Orange County, Florida.

Building official means for unincorporated Orange County, the Orange County Building Official as defined in section 9-111; and for incorporated cities within the particular municipality.

Dock means any permanently fixed or floating structure extending from the upland into the water, capable of use for vessel mooring and other uses. It includes any floating structure, boat lift or mooring piling, detached from the land, capable of use for mooring vessels and/or for other water-dependent uses. This term does not include any vessel that is not permanently docked, moored, or anchored.

Enclosed dock means a dock which has any portion of its structure completely or partially enclosed with walls and/or doors. Screened enclosure is not enclosed.

Environmental protection commission means the commission created and established pursuant to section 5-22.

Environmental protection officer means the Orange County official as defined in section 15-32.

EPD means the Orange County Environmental Protection Division.

Maintenance means the act of keeping the dock in a safe and useable condition consistent with original design specifications.

Normal high water elevation (NHWE) means the landward edge of any natural surface water body during normal hydrological conditions, as determined by the Board.

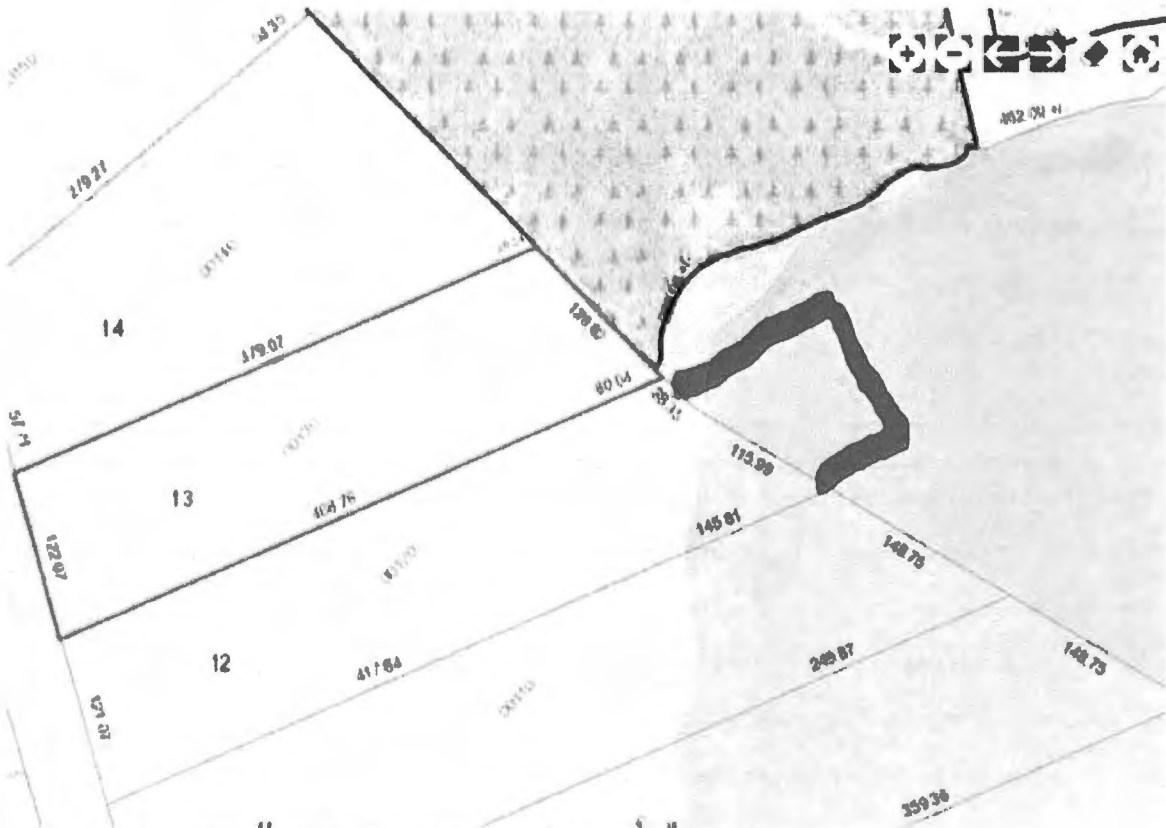
Person means any individual, firm, partnership, corporation, or other entity, including governmental entities.

Principal structure means the building or structure in which the principal use of the parcel or lot is conducted. A dock shall not be the principal structure.

Principal use means a use of the upland parcel for residential, commercial or governmental purposes. At a minimum, a principal use shall be established.

Private dock means a dock, which may be used by only those persons living on the upland parcel and their usual and customary guests.

Property line means, in cases of privately owned bottomland, that is, non-tidal, the actual property line.



1. Overlaps onto "projected property line of 11527 Waterstone Loop Drive"



- 🔍 Searches
- 💰 Sales Search
- 📄 Property Record Card
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11533 Waterstone Loop Dr < 24-23-27-9009-00-130 >

<p>Name(s) Heydari Majid Shahi Farnaz Akbar</p> <p>Property Name ⓘ N/A. Click information icon to contribute.</p> <p>Mailing Address On File 13638 Tortona Ln Apt 1302 Windermere, FL 34786-7465 Incorrect Mailing Address?</p>	<p>Physical Street Address 11533 Waterstone Loop Dr</p> <p>Postal City and Zipcode Windermere, FL 34786</p> <p>Property Use [REDACTED]</p> <p>Municipality Un-Incorporated</p>
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View 2019 Property Record Card

- Property Features
- Values, Exemptions and Taxes
- Sales Analysis
- Loca

Parcel Sales History

Sale Date	Sale Amount	Instrument #	Book/Page	Seller(s)
05-28-2017	\$550,000	20170179034	/	Harris Hooker And Huber LLC

2. Not waterfront lot

11527 Waterstone Loop Dr < 24-23-27-9009-00-120 >

Name(s) Merk Gregory P	Physical Street Address 11527 Waterstone Loop Dr
Property Name ⓘ N/A. Click information icon to contribute.	Postal City and Zipcode Windermere, FL 34786
Mailing Address On File 11520 Waterstone Loop Dr Windermere, FL 34786-5430	Property Use [REDACTED]
Incorrect Mailing Address?	Municipality Un-Incorporated

View 2019 Property Record Card

[Property Features](#)
[Values, Exemptions and Taxes](#)
[Sales Analysis](#)

Parcel Sales History

Sale Date	Sale Amount	Instrument #	Book/Page	Seller(s)
01/06/2016	\$1,252,200	20160023766	/	Harris Hooker And Fube

- Same property sold for 44% of 11527 Waterstone Loop Drive more than one year later (\$550,000 compared to \$1,252,200)

- ☑ Orange County
 - Code of Ordinances
 - Chapter 15 ENVIRONMENTAL CONTROL
 - Article X DOCK CONSTRUCTION
 - Division 2 PERMITS

◀ § 15-343. Additional conditions of issuance of permits for private docks. ▶

Latest version

- (a) On lots or parcels having a shoreline frontage of less than seventy-five (75) feet, docks, including designated mooring areas, shall be line
- (b) On lots or parcels having a shoreline [REDACTED] docks shall have a [REDACTED] reduced by an appropriate waiver which shall be reviewed by the environmental protection division. Certain lots or parcels may be so the projected property lines converge due to an irregular lot shape, a proposed dock may not meet the minimum setback distance at a distance between the projected property lines is equal to or less than seventy-five (75) feet, the minimum setback shall be ten feet. With environmental protection officer if a notarized [REDACTED] the minimum side-setback requirement shall be granted in accordance with the provisions of section 15-350
- (c) Storage lockers shall be limited to a cumulative maximum of sixty-five (65) cubic feet. Storage lockers shall not be used to store boat equipment, and hazardous materials or hazardous wastes. Storage lockers are prohibited on semi-private docks and public docks

(Ord. No. 2004-08 § 2, 5-18-04)

- 11533 is not lakefront property as defined in the deed or the sale or property title

5. Planned dock does not meet minimum setback of either 25 ft or even 10ft. It has a negative setback of 36.48ft and crosses the projected property line of 11520 Waterstone Loop Drive

- Orange County
- Code of Ordinances
- Chapter 15 ENVIRONMENTAL CONTROL
- Article X DOCK CONSTRUCTION
- Division 2 PERMITS

◀ § 15-350. Variance and waiver. ▶

Latest version

(a) Generally

- (1) **Variations.** An application for variance from the requirements of this article shall be made to the environmental protection officer. At a minimum, the applicant shall identify this article from which the applicant seeks a variance and the extent of the requested variance. The applicant shall also describe (1) the hardship cannot be self-imposed; and (2) the environmental protection officer, environmental protection commission and the board may require of the applicant information necessary to receive an approval or approval with conditions when such variance: (1) would not be contrary to the public interest; (2) where, owing to the hardship, it is necessary to impose an unnecessary hardship on the permit applicant; (3) that the hardship is not self-imposed; and (4) the variance is necessary.
- (i) The environmental protection officer may approve variances to the provisions of this ordinance to accommodate persons with disabilities.
- (ii) The environmental protection officer may approve variances to the provisions of this article in order to provide greater protection to the environment.
- (iii) Applicants may seek variances from the provisions of the ordinance not addressed in paragraphs (i) and (ii) above from the environmental protection officer.
- (2) **Waivers.** An application for waivers from the requirements of sections 15-342(b), 15-343(b), 15-344(a) and 15-345(a) shall be made to the environmental protection officer. The applicant shall identify the sections and paragraphs of this article from which the applicant seeks a waiver and the extent of the requested waiver. The applicant shall also describe (1) the waiver is necessary to carry out the purposes of this article and (2) the environmental protection officer, environmental protection commission and the board may require of the applicant information necessary to receive an approval or approval with conditions when such waiver: (1) would not be contrary to the public interest; (2) where, owing to the hardship, it is necessary to impose an unnecessary hardship on the permit applicant; (3) that the hardship is not self-imposed; and (4) the waiver is necessary.

- (b) **Procedure.** Except as otherwise provided in section 15-343(b), the environmental protection officer shall make a recommendation to approve or deny the application to the environmental protection commission. The environmental protection commission shall render to the board a recommendation to approve or deny the application. The recommendation of the environmental protection commission shall be provided to the board within twenty-one (21) days, pre period, then the recommendation shall be presented at the first meeting of the board following the expiration of the 21-day period. The board shall make a final decision on the application.

(Ord. No. 2004-08, § 2, 5-18-04)

1. No reason whatsoever to grant waiver due to hardship as the land was not purchased nor paid for as waterfront property. Note that all waterfront property on Waterstone Loop Drive was sold for a value in excess of 2x that of 11533 Waterstone Loop Drive and each had Waterfront access in the deed
2. Authorization of dock permit negatively affects abutting shoreline owners by
 1. devaluing all abutting shoreline property values (11 waterfront homes in Waterstone Community)
 2. Significantly devaluing 11527 Waterstone Loop drive as dock encroaches on projected property line as defined in Orange County Code, Chapter 15, Article IX, Section 15-232
 3. Waiver not approved by abutting waterfront homes

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FREQUENTLY ASKED QUESTIONS

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MAIL, FAX, OR EMAIL TO:

Orange County Environmental Protection Division, 3165 McCrory Place, Suite 200,
Orlando, Florida 32803
Phone # (407) 836-1489 - Fax #: (407) 836-1499
E-Mail Address: wetlandpermitting@ocfl.net

APPLICANT: Majid Heydari PROJECT NO.: BD-20-04-070	<input type="checkbox"/> IN FAVOR <input checked="" type="checkbox"/> OPPOSED
Your Information Name: Anna H. Long, Attorney Address: 420 S. Orange Ave, Suite 700 Phone: 407-841-1200 x 5120 Email: along@deanmead.com	Commentary: As Authorized Agent for: James and Dian Phillips, adjacent property Owners, 1475 Kelso Blvd. Please find this correspondence in opposition to any requested variance to allow for a boat dock for the subject project (BD-20-04-070).

Johnson, Liz

From: Bowden, Rebecca L
Sent: Tuesday, September 29, 2020 3:17 PM
To: Johnson, Liz; Hull, Tim M; Thomas, Neal; Root, Jason
Subject: Heydari - Phillips Objection

Importance: High

Hello all –

I just received an objection from Mr. Phillips (the other neighbor to Mr. Heydari). Please let me know how to move forward with this..

Thank you,

Rebecca Bowden

Senior Environmental Specialist
Orange County Environmental Protection Division
Office: 407-836-1523
Cell: 407-419-1114



From: Certi-Fine Fruit
Sent: Tuesday, September 29, 2020 3:13 PM
To: Bowden, Rebecca L
Subject: Boat Dock Waiver Application BD-20-04-070

Re: Boat Dock Waiver Application BD-20-04-070 for 11533 Waterstone Loop Dr.

Attn: Rebecca Bowden

Sorry for the lateness of this note. We are writing to object to the request for a waiver for the dock for 11533 Waterstone Loop Dr, Windermere, FL. We own the property next to this lot. We've read the 7/24/20 letter to you from Gregory Merk, the neighbor on the other side of the lot, and we agree with all of the reasons why he objects that he mentions in that letter. We also object because the proposed dock would be right in front of our property and that would devalue our land for future use.

James D. & Dian S. Phillips
1475 Kelso Blvd
Windermere, FL 34786
cff@cfl.rr.com

From: [Scott A. Melver](#)
To: [Johnson, Liz](#)
Cc: [Bowden, Rebecca L](#); [Thomas, Neal](#); [Hull, Tim M](#)
Subject: Re: [EXT] Webex meeting invitation: Environmental Protection Commission Meetings Via WebEx
Date: Wednesday, September 30, 2020 6:08:29 AM
Attachments: [image002.png](#)

Liz

Thank you for the invitation. I will not be able to make the meeting, however want to formally agree with the EPD finding to NOT allow this dock to be built. The owner did not buy a water front home and has not paid taxes on a water front home. It infringes on the Merk's property - if the lake were ever to dry up (like Clermont) or a draw down was needed, this dock would be on the Merk's property. Thus this dock should not be allowed to proceed.

Regards
Scott Melver
11521 Waterstone Loop Dr

On Sep 29, 2020, at 12:41 PM, Liz.Johnson@ocfl.net wrote:

Hello, I am the Assistant Manager with the Orange County Environmental Protection Division. This is the public hearing for Dr. Heydari's dock. Mr. Merk has been invited. Mr. Phillips was sent a notice but did not respond.

You can find the staff report at the following website:

<https://www.orangecountyfl.net/Home/CountyCalendar.aspx?m=dtl/w&d=763536>

Thank you,

Elizabeth "Liz" R. Johnson, CEP, PWS, MPA, Assistant Manager
Environmental Protection Division
3165 McCrory Place, Suite 200
Orlando Florida 32803
office: 407-836-1511
cell: 321-231-9179
fax: 407-836-1499
email: liz.johnson@ocfl.net
web: www.ocepd.org
Click [here](#) for directions to our office.

<image001.jpg>

<image002.png>

EPD is trying to get at least 1,000 residents to take the online Orange County Fertilizer Application Course.

Please help us get there!

Access the course here: [Fertilizer Application for Residents](#)

<image003.jpg>

<image004.jpg>

Did you know that our Environmental Permit information is available online?

https://fasttrack.ocfl.net/OnlineServices/Permit_Environmental.aspx

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From: Scott A. McIver [mailto:smciver@methodsmachine.com]

Sent: Tuesday, September 29, 2020 12:36 PM

To: Johnson, Liz <Liz.Johnson@ocfl.net>

Subject: Re: [EXT] Webex meeting invitation: Environmental Protection Commission Meetings Via WebEx

Liz - who are you? I'm assuming this has to do with the Merks dock? We are obviously very concerned. With Dr. Phillips be joining as well since he is an abutter?

Scott

Sent from my iPhone

> On Sep 29, 2020, at 12:15 PM, Liz Johnson <liz.johnson@ocfl.net> wrote:

>

> Would be great if you could join!!!

>

> -----Original Appointment-----

> From: Liz Johnson [mailto:liz.johnson@ocfl.net]

> Sent: Tuesday, September 15, 2020 2:45 PM

> To: Liz Johnson; Merk, Gregory

> Subject: [EXT] Webex meeting invitation: Environmental Protection

Commission Meetings Via WebEx

> When: Wednesday, September 30, 2020 8:15 AM-10:15 AM
America/New_York.

> Where: <https://ocfl.webex.com/ocfl/j.php?>

[MTID=m94910738a6edb81f4e06db904fd21dc6](https://ocfl.webex.com/ocfl/j.php?MTID=m94910738a6edb81f4e06db904fd21dc6)

>

> ***NOTICE*** This came from an external source. Use caution when
replying, clicking on links, or opening attachments.

>

>

>

> Liz Johnson invites you to join this Webex meeting.

>

>

>

> Meeting number (access code): 133 076 0053

>

> Meeting password: NMsTXdJm384

>

>

>

> Wednesday, September 30, 2020

> 8:15 am | (UTC-04:00) Eastern Time (US & Canada) | 2 hrs

>

>

>

> Join meeting<<https://ocfl.webex.com/ocfl/j.php?>

[MTID=m94910738a6edb81f4e06db904fd21dc6](https://ocfl.webex.com/ocfl/j.php?MTID=m94910738a6edb81f4e06db904fd21dc6)>

>

>

>

>

> Tap to join from a mobile device (attendees only)

> +1-408-792-6300..1330760053##<[tel:%2B1-408-792-](tel:%2B1-408-792-6300)

[6300](tel:%2B1-408-792-6300).*01*1330760053%23%23*01*> Call-in toll number (US/Canada)

>

>

> Join by phone

> 1-408-792-6300 Call-in toll number (US/Canada)

> Global call-in numbers<<https://ocfl.webex.com/ocfl/globalcallin.php?>

[MTID=m565a831cb3f526b06faca410d78acf13](https://ocfl.webex.com/ocfl/globalcallin.php?MTID=m565a831cb3f526b06faca410d78acf13)>

>

>

>

> Join from a video system or application

> Dial [1330760053@ocfl.webex.com](https://ocfl.webex.com/ocfl/globalcallin.php?)<[sip:1330760053@ocfl.webex.com](https://ocfl.webex.com/ocfl/globalcallin.php?)>

> You can also dial 173.243.2.68<<http://173.243.2.68>> and enter your meeting
number.

>

>

>
> Join using Microsoft Lync or Microsoft Skype for Business
> Dial
[1330760053.ocfl@lync.webex.com](tel:1330760053)<[1330760053.ocfl@lync.webex.com](tel:1330760053)>

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> Need help? Go to <http://help.webex.com>

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From: Scott A. McIver
To: Bowden, Rebecca L.
Subject: BD-20-04-070
Date: Thursday, December 24, 2020 6:06:24 PM

Rebecca

We are in receipt of your not on the dock setback.

We contest this waiver as the lot owner did not pay for, or pay taxes on a water front lot. He bought a water view lot, and is trying to add millions to his property value at others expense. This is not something we support and request the application be denied. The dock would also be located in the spill way between Butler and Lake Cyprus - isn't this area protected? (And owned by Dr Phillips).

Regards
Scott McIver

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From: Garrett Kenny
To: Bowden, Rebecca L
Subject: project no-BD-20-04-070
Date: Sunday, January 3, 2021 11:48:05 AM

Rebecca

i wonder could you help me ,i received a notice in the mail about the above boat dock project located at 11533 waterstone loop drive windermere fl 34786.i searched the link and nothing is coming up

Oops! Sorry we are unable to complete your request.
You may try to navigate to the previous page using the browser's **Back** button.
Otherwise, please navigate to the [Fast Track Home](#) page.

would you be able to send me a map of the proposed boat dock application as i'm very concerned about this application,last time i was familiar with this application it would have blocked my potential access to the lake any help you can offer would be appreciated

garrett kenny
11545 waterstone loop drive windermere fl 34786

--
GARRETT KENNY

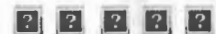
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FREQUENTLY ASKED QUESTIONS

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Orlando, Florida 32803
Phone #: (407) 836-1489 - Fax #: (407) 836-1499
E-Mail Address: wetlandpermitting@ocfl.net

APPLICANT: Majid Heydari
PROJECT NO.: BD-20-04-070

IN FAVOR

OPPOSED

Your Information
Name: JAMES S. + PATRICIA J PHILLIPS
Address: 1476 KELSO BLVD., WINDERMERE
Phone: 407-877-2751
Email: jsp1060@hotmail.com

Commentary:
WE ARE OPPOSED TO THIS
WAIVER FOR THIS BOAT DOCK.
THANK YOU.

FREQUENTLY ASKED QUESTIONS

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The meeting will also be held at the Orange County Environmental Protection Division, 3165 McCrory Place, Suite 200, Orlando, Florida 32803. Orange County staff will be present to ensure that social distancing and other health and safety measures are practiced and enforced.

Information on Providing Public Comments or Questions Regarding this Specific Case:

Written comments or questions may be submitted five different ways: (1) by filling out the form at the end of this notice and returning it to Orange County via mail, fax or e-mail; (2) by contacting the project manager listed on the front of this notice; (3) by e-mailing your comments/questions to wetlandpermitting@ocfl.net; (4) by mailing your comments/questions to "Orange County Environmental Protection Division, 3165 McCrory Place, Suite 200, Orlando Florida 32803"; or (5) by faxing your comments/questions to (407) 836-1499.

Information on Providing Testimony or Participating in this Hearing:

Members of the public who would like to provide testimony during the hearing for this case may utilize one of two options:

- The person may join and participate in the meeting through the video section of WebEx found in the link in the County Calendar at <https://www.ocfl.net/Home/CountyCalendar.aspx>; or
- The person may attend the meeting in person at the second floor of the Orange County Environmental Protection Division Office at 3165 McCrory Place, Orlando, Florida 32803.

Please note that 4 of the EPC members will be physically present. The person will communicate with the EPC members where the person will see and hear the EPC members and the EPC members will see and hear the person. Also, please note that the time allotted to each individual for testimony will be at the sole discretion of the EPC Chairperson, and may be reduced from the normal time limit of three minutes, depending on the number of speakers. Orange County staff will be present to assist and to ensure that social distancing and other health and safety measures are practiced and enforced.

If a person is unable to attend the EPC meeting in person or access the WebEx meeting via a computer, please call Liz Johnson, Assistant Manager, Orange County Environmental Protection Division, at 407-836-1511 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays, not later than 24 hours before the meeting, so that she can determine with the person whether other arrangements are feasible.

MAIL, FAX, OR EMAIL TO:

Orange County Environmental Protection Division, 3165 McCrory Place, Suite 200,
Orlando, Florida 32803
Phone #: (407) 836-1488 - Fax #: (407) 836-1499
E-Mail Address: wetlandpermitting@ocfl.net

APPLICANT: Majid Heydari
PROJECT NO.: BD-20-04-070

IN FAVOR

OPPOSED

Your Information
Name: Albert + Cathy Curnan
Address: 1474 Kelso Blvd, Windermere
Phone: 407-656-1945
Email: Curnan@hotmail.com

Commentary:
We are in opposition to any requested variance to permit a boat dock on this property. It doesn't even appear to be a lakefront lot.

From: [Certi-Fine Fruit](#)
To: [Bowden, Rebecca L](#)
Subject: RE: New Site Plan for the Heydari dock
Date: Friday, January 8, 2021 12:11:21 PM

Rebecca,

Thank you for sending this. We still are in opposition to this plan. It still seems that they actually do not have "lakefront" property to put this dock. It still seems to be "in front" of our property. They don't meet the setback from our property line and we are not inclined to sign a waiver for this. Anna Long is preparing a formal letter of objection to this for us, but I just wanted you to know that we have not changed our position of objecting to this request.

Thank you,
Cathy Curnan
cff@cfl.rr.com
(for James D. & Dian S. Phillips, 1475 Kelso Blvd, Windermere)

On another note, my husband (Albert) & I, received the notice at our home also (1474 Kelso Blvd). My brother and his wife (James S & Patricia Phillips, 1476 Kelso Blvd) also received notice, because we are both within so many feet of this request. We both are writing letters of objections also.
Thanks again, Cathy

From: Rebecca.Bowden@ocfl.net [mailto:Rebecca.Bowden@ocfl.net]
Sent: Thursday, January 07, 2021 4:39 PM
Subject: New Site Plan for the Heydari dock

Good afternoon,

I just wanted to make sure you were in receipt of the new site plan for the Heydari dock? I have reattached for your convenience. I just want to confirm your stance on this new location?

Please let me know

Thank you,

Rebecca Bowden
Senior Environmental Specialist
Environmental Permitting, Compliance and Enforcement
Orange County Environmental Protection Division
3165 McCrory Place, Suite 200
Orlando Florida 32803
Office: 407 836-1523
Cell: 407 419 1114
Fax: 407-836 1499

Email: Rebecca.Bowden@ocfl.net

Did you know that our Environmental Permit information is available online?

https://fasttrack.ocfl.net/OnlineServices/Permit_Environmental.aspx

Do you have questions about the CAD or CAI Process? Please click the link below:

http://orangecountyfl.net/Portals/0/resource%20library/permits%20-%20licenses/Chp%2015-X%20Wetland%20Permit-Hndbk-20190905_final_ADA-CERT.pdf



PLEASE NOTE: Florida has a very broad public records law (F. S. 119). All e-mails to and from County Officials are kept as a public record. Your e-mail communications, including your e-mail address may be disclosed to the public and media at any time.



APPLICATION TO CONSTRUCT A DOCK

(In Accordance with Orange County Code Chapter 15, Article IX, Orange County Code)

received 5/4/2020

Mail or Deliver To: Orange County Environmental Protection Division, 800 Mercy Drive, Suite 4, Orlando, Florida 32808, (407) 836-1400, Fax (407) 836-1499

Filing fee of \$119.00 payable to The Board of County Commissioners
Process fee for Appeals and Variances: \$409.00

SECTION 1

Form with sections: OWNER(S) OF THE LAND, ENTITY TO RECEIVE PERMIT (IF OTHER THAN OWNER), AGENT/CONSULTANT AUTHORIZED TO SECURE PERMIT, CONTRACTOR (IF DIFFERENT FROM AGENT). Includes fields for Name, Title and Company, Address, City, State, Zip, Telephone and Fax, and Email.

SECTION 2 - GENERAL INFORMATION

Street Address: 11533 Waterstone Loop Drive

Tax Parcel ID 24 - 23 - 27 - 9009 - 00 - 130

Legal Description: WATERSTONE 74/131 LOT 13

Name of water body: Lake Butler Normal High Water Elevation (NHWE): 98.48 msl

Is the proposed dock? Please check one: Private Semi-Private Public

What is the width of the shoreline (in linear feet), as measured at the NHWE? 122.07 feet.

What is the size of proposed terminal platform? 964 square feet. [See Chapter 15; Article IX; Section 15-342(b)]

Are you requesting a variance? Yes No

Are you requesting a waiver? Yes No

If yes, provide section Number: 15- 343 (b) (example: 15-321) and describe the nature of the variance and/or waiver request:

Request a negative 15' setback to allow the corner of the terminal platform to cross the projected property line.

Note applications for a waiver and/or variance from the boat dock ordinance will require the completion of a separate waiver and/or variance application and may require additional fees. If you have questions, please call EPD for assistance.

Brief Description of proposed work: 4' x 324' dock, 16' x 26' deck, a 13' x 26' boathouse and an 11' x 14' jetski slip

Are there docks on the abutting properties? Yes No one side

Are there any access restrictions to the property (locked gate/loose dogs): yes, gated subdivision

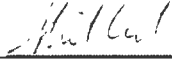
REQUIRED ATTACHMENT(S) CHECKLIST:

- Satisfactory evidence of title. (*Example: copy of property deed*).
- Documentation showing riparian rights for the parcel.
- A copy of a survey, to scale, of the real property which accurately depicts current conditions.
- Four (4) copies of a site plan depicting the exact location of the proposed dock, and shall include the following:**
 - An arrow indicating the northerly direction of the scale to which the sketch or drawing was prepared.
 - The name of the water body upon which the proposed dock structure or renovation is to be located.
 - The exact distance between the shoreline and a permanent object or construction.
 - The exact setback distance from adjacent property lines and projected property lines to all portions of the dock.
 - The floor and roof elevations of the proposed or existing dock.
 - The current water depth at the end of the proposed or existing dock, and at all proposed mooring locations.
 - The length of the proposed or existing dock, as measured from the NHWE to the point most waterward of the NHWE.

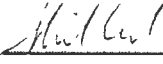
- The NHWE as established by the county shown property survey as field verified by a professional surveyor.
- The location of any conservation easement areas and wetlands within twenty feet from any portion of the dock
- A description of vegetation types identified occurring within twenty feet from any portion of the dock
- The location of any lifts, hoists, mooring pilings and mooring areas
- A mitigation plan offsetting adverse impacts to the conservation easement areas or wetlands (if applicable)
- A description of sedimentation and erosion control measures used during construction and/or repair of the dock
- AGENT AUTHORIZATION FORM**

PERSON AUTHORIZING ACCESS TO THE PROPERTY MUST COMPLETE THE FOLLOWING:

I either own the property described in this application or I have legal authority to allow access to the property and I consent to any site visit on the property by agents or personnel from Orange County, Florida necessary for the review and inspection of the proposed project specified in this application. I authorize these agents or personnel to enter the property as many times as may be necessary to make such review and inspection. Further, I agree to provide entry to the project site for such agents or personnel to monitor permitted work if a permit is granted.

Sheila Cichra		04/29/2020
Typed/Printed Name	Signature	Date
President, Streamline Permitting, Inc.		
Corporate Title (if applicable)		

By signing and submitting this application form, I am applying for the permit identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, water management district or local permit prior to commencement of construction. I understand that Orange County will make no representation as to the proposed dock's impact on navigability or safety. For that reason, I understand that it may be advisable for me to consult with an expert in navigability and safety issues. I agree, or I agree on behalf of my corporation, to operate and maintain the permitted system unless the permitting agency authorizes transfer of the permit to a responsible operation entity; I understand that knowingly making any false statements or representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code.

Typed/Printed Name of Applicant <u>Sheila Cichra</u>	
Signature of Applicant/Agent 	Date <u>04/29/2020</u>
President, Streamline Permitting, Inc.	
Corporate Title (if applicable)	

SECTION 3

Name and Address of adjacent property owners:

Name: Gregory Merk

Address: 11520 Waterstone Loop Drive

City: Windermere State FL Zip 34786

Name: Thomas and Kendra Ochoa

Address: 11539 Waterstone Loop Drive

City: Windermere State FL Zip 34786

NOTICE TO APPLICANTS: The proposed dock structure may require a permit from either the Florida Department of Environmental Protection or the applicable Water Management District. In addition to public regulations which Orange County enforces, be advised that there may be other private restrictions or approval requirements that will affect your ability to erect this structure. Please review your deed restrictions and or consult with your Homeowner's Association or Architectural Review Board.



Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.
420 South Orange Avenue, Suite 700
P.O. Box 2346 (ZIP 32802-2346)
Orlando, FL 32801

(407) 841-1200
(407) 423-1831 Fax
www.deanmead.com

Attorneys and Counselors at Law
Orlando
Fort Pierce
Tallahassee
Viera/Melbourne
Vero Beach

ANNA LONG
(407) 428-5120
along@deanmead.com

February 23, 2021

VIA E-MAIL (David.Jones2@ocfl.net)

Environmental Protection Commission
c/o David D. Jones, P.E., CEP, Manager
Orange County Environmental Protection Division
3165 McCory Place, Suite 200
Orlando, Florida 32803

RE: Majid Heydari Request for a Waiver for Dock Construction
11533 Waterstone Loop Drive, Windermere, FL 34786
Permit BD-20-04-070
Letter of Objection

Dear Mr. Jones,

This Firm represents two property owners:

- 1) Gregory and Daniela Merk
11520 Waterstone Loop Drive, Windermere, FL 34786
Adjoining property owners to the subject site, south
- 2) James and Dian Phillips
1475 Kelso Blvd., Windermere, FL 34786
Adjoining property owners to the subject site, northeast

Notices of the Merks and the Phillips, previously objections to the requested waiver of the required setbacks for the proposed boat dock have been submitted to the Environmental Protection Division (EPD) as follows:

Merk: July 24, 2020;
Phillips: September 29, 2020, January 8, 2021 and January 20, 2021

In addition, as the attorney of record regarding this matter for both the Merks and the Phillips, I completed and submitted the notice form for the January EPC Meeting at which time this matter was to be heard, objecting to the requested waiver, as well. The objections submitted on January 8, 2021, were submitted after reviewing the applicant's revised plans submitted to the EPD dated December 8, 2020 with my clients.

It is acknowledged that the applicant did make adjustments from the applicant's initial submittal, however the current application and associated boat dock plans, still do not meet the requirement as set forth in the applicable Orange County Code.

As proposed, the boat dock cannot be constructed in compliance with Chapter 15, Article IX, and Section 15-343 (b), without a waiver to the required setback requirements from adjacent properties. The staff report, dated February 5, 2021, provides that the applicant's shoreline measures 129'. My clients do not agree. In fact, in addition to my clients, other letters of objection submitted to EPD suggest that the subject property is not "waterfront" at all.

Regardless, even if my clients were to accept the distance of 129' of shoreline as being accurate, without a waiver, the applicant cannot meet the required setbacks from either the Merks' property or the Phillips' property. Neither of my clients are willing to consent to such a waiver.

In order to support the requested waiver, the applicant is required to describe (1) how the waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners (Orange County Code of Ordinances, Chapter 15, Article IX, Section 15-350(a)(2)). The applicant's agent provided the following:

"The reduced setback is required in order to construct the terminal platform over the only available open water, therefore granting the waiver would result in the least impact to the environment." (Section 15-350(a)(2)(1)); and

"The proposed structure will not adversely affect the adjacent property owner's view or navigability. The adjacent dock is on the far side of the southern neighbor's lot and the proposed terminal platform will be screened from that house, due to the trees and heavy aquatic vegetation in the conservation area. (Section 15-350(a)(2)(2)),

Neither of these responses sufficiently addresses the code requirements to warrant a waiver from the required setback distances. As previously conveyed to EPD, the subject property is situated in such a fashion that a boat dock is simply not feasible regardless of location or configuration. The subject property may not even be waterfront property at all. It certainly is not reflected as such on the County Property Appraiser's website at this time.

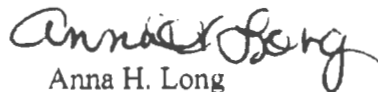
David D. Jones, P.E., CEP, Manager
February 23, 2021
Page 3

In addition to concerns regarding safety, diminishing property values to both the Merks' property and the Phillips' property is also of real concern, potential impacts to the areas that would have to be impacted for what would be an extraordinarily long walkway, is another concern. Finally, existing views from my client waterfront properties would also be adversely impacted.

If the applicant is able to reconfigure the proposed boat dock plans to comply with current County code, while not requiring a waiver from the same, then my clients' would not necessarily be in a position to pose such strong objections. That is not the case.

On behalf of my clients, Gregory and Daniela Merk and James and Dian Phillips, for the reasons set forth above and as previously set forth in the correspondence noted herein, we strongly object to the boat dock application as submitted, and to the waivers being requested therein. We respectfully, request that the EPC deny the request.

Sincerely,



Anna H. Long
Attorney for Greg and Daniela Merk
Attorney for James and Dian Phillips

AHL:ph

cc: Gregory and Daniela Merk
James and Dian Phillips
Liz Johnson





ENVIRONMENTAL PROTECTION DIVISION

David D. Jones, P.E., CEP, Manager

3165 McCrory Place, Suite 200
Orlando, FL 32803
407-836-1400 • Fax 407-836-1499
www.ocfl.net

ENVIRONMENTAL
PROTECTION
COMMISSION

ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION
February 24, 2021

Mark Ausley
Chairman

APPLICANT: Majid Heydari

Oscar Anderson
Vice Chairman

PERMIT APPLICATION NUMBER: BD-20-04-070

Flormari Blackburn

LOCATION/ADDRESS: 11533 Waterstone Loop Drive

Billy Butterfield

RECOMMENDATION: Acceptance of the findings and recommendation of the Environmental Protection Officer, and make a finding that the request for waiver is not consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2)(2) and recommend denial of the request for waiver to Section 15-343(b) to reduce the side setback distance for the Majid Heydari Dock Construction Permit BD-20-04-070. District 1.

Mark Corbett

Elaine Imbruglia

Vacancy Regulated
Business or
Municipality

EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED.

EPC DISAGREES WITH THE ACTION REQUESTED, AS PRESENTED AND HAS MADE THE FOLLOWING RECOMMENDATION:

Upon a motion by Oscar Anderson; with a second by Elaine Imbruglia, with Mark Ausley, Oscar Anderson, Mark Corbett, Elaine Imbruglia, and Flormari Blackburn voting AYE by voice vote, and Billy Butterfield voting NAY; EPC voted to overturn the recommendation of the Environmental Protection Officer, and make a finding that the waiver request is consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2) and recommends approval of the request for waiver to Section 15-343(b) to reduce the side setback distance for the Majid Heydari Dock Construction Permit BD-20-04-070. District 1. The motion passed 5 to 1.

Signature of EPC Chairman:

DATE EPC RECOMMENDATION RENDERED: 2-24-2021

RECEIPT FOR PAYMENT

Board of County Commissioners

Department EPD Date 3-4-2021
 Received From Dean Mead Egerton Bloodworth Capouano
 Address + Bozarth PA 420 S Orange Avenue
Suite 700, Orlando, FL 32801
Boat Dock Appeal
 CASH CHECK/NO. 108342
 OTHER _____
 RECEIVED BY Terrri Brinson

Amount \$ 409.00
 Org/Fund 0001-068
 Account No. 2420-4340
 4-12 (3/87)



03/03/21 DEAN MEAD EGERTON BLOODWORTH CAPOUANO & BOZARTH PA
 11266 DEPARTMENT OF ENVIRONMENTAL PROTECTION PERFORMANCE ADVISE CHECK: 108342

DATE	INVOICE NUMBER	DESCRIPTION	REFERENCE	AMOUNT
03-03-21	03032021	Appeal Fee (Haydari Waiver for Dock Construction - BD-20-04-070) 038695/075327 AHL/PH	2048777	409.00
			TOTAL:	\$409.00

2021 MAR 4 AM 5:20
 PROTECTION DIVISION
 C. J. ENVIRONMENTAL

DEAN MEAD

ATTORNEYS AT LAW

Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.
420 South Orange Avenue, Suite 700
P.O. Box 2346 (ZIP 32802-2346)
Orlando, FL 32801

(407) 841-1200
(407) 423-1831 Fax
www.deanmead.com

FLORIDA
ENVIRONMENTAL
PROTECTION DIVISION

2021 MAR -4 AM 9:30

Attorneys and Counselors at Law
Orlando
Fort Pierce
Tallahassee
Viera/Melbourne
Vero Beach

ANNA LONG
(407) 428-5120
along@deanmead.com

March 3, 2021

VIA FEDEX, FACSIMILE and EMAIL

Environmental Protection Division (EPD)
ATTN: Environmental Protection Officer
Orange County, FL
3165 McCrory Place, Suite 200
Orlando, FL 32803
wetlandpermitting@ocfl.net
Fax: (407) 836-1499

**Re: NOTICE OF APPEAL UNDER ORANGE COUNTY CODE, CHAPTER
15, ARTICLE IX, SECTION 15-349:**

**Dock Construction Permit No. BD-20-04-070 - Melid Heydari, Applicant
11533 Waterstone Loop Drive, Windermere, FL 34786
Parcel ID No.: 24-23-27-9009-130**

To Orange County Environmental Protection Officer:

This firm represents James and Dian Phillips, who live at 1475 Kelso Blvd., Windermere, FL 34786 and who are also the owners of the Kelso Blvd. property with Parcel ID No.: 24-23-27-0000-00-053 (the "Phillips") and Gregory and Daniela Merk, who live at 11520 Waterstone Loop Drive, Windermere, FL 34786 and who are also the owners of the property located at 11527 Waterstone Loop Drive, Windermere, FL 34786 (the "Merks").

This letter shall serve as an **APPEAL of the WAIVER for DOCK CONSTRUCTION PERMIT NO. BD-20-12-203**, issued on February 24, 2021 by the Orange County Environmental Protection Commission ("**EPC**") for the subject property (the "Waiver"). The shoreline of the Applicant's property abuts to the northeast, the Phillips' Kelso Blvd property

(Parcel ID No.: 24-23-27-0000-00-053) and to the south, the Applicant's property abuts the Merk's 11527 Waterstone Loop Drive property. An aerial map depicting the location of each of the properties noted herein is provided in Figure 1 below. Merk and Phillips, have each previously filed written objections to the Waiver,¹ which are hereby incorporated by reference, and are entitled to appeal the Waiver approval under Orange County Code (the "Code") § 15-349. Pending this appeal, the Waiver approval is not effective and dock construction may not begin. This letter contains all of the required information as set forth under Code § 15-349(d)² and is timely filed within ten (10) calendar days of the February 24, 2021 Waiver approval.



Figure 1 – Aerial of Properties Noted As Mentioned in this Notice of Appeal

Construction of the proposed boat dock, which would be permissible under the Waiver, of a roughly 567 sq. ft. dock, depicted below in Figure 2, in Lake Butler will have significant and direct adverse impacts on the property rights of Phillips and Merk, the adjacent owners' to the Applicant's property. The Waiver as it was approved, would result in 13 inches of separation

¹ See e.g. letter from Ms. Anna H. Long, Esquire, Dean Mead, on behalf of Merk and Phillips, dated February 23, 2021 to the EPC, c/o David D. Jones, P.E., CEP, Manager, Orange County Environmental Protection Division, "Majid Heydari Request for a Waiver for Dock Construction, 11533 Waterstone Loop Drive, Windermere, FL 34786, Permit BD-20-04-070, Letter of Objection"; also email letter transmittal from Gregory Merk, dated July 24, 2020, and objection notices from Phillips dated September 29, 2020 and January 8, 2021, January 15, 2021.

² Code § 15-349(d) requires: (1) a statement identifying the decision being appealed; (2) the name, address, telephone number, and facsimile (if any) of the person or persons appealing the decision; (3) a detailed statement asserting grounds for the appeal; and (4) a statement describing with particularity each section and paragraph of this article the appellant contends requires reversal or modification of the decision.

from the boat dock to the Phillips property and approximately 12 inches of separation from the Merk property. While the Applicant's survey may depict the applicant's lot as having a shoreline of 129' ft., the actual water frontage is just too small, very, very small, to have a boat dock constructed in such a way that it would not infringe on the adjacent property owners, Phillips and Merk, respectively.



Figure 2 – Proposed boat dock at 11533 Waterstone Loop Drive

Violation of Code §§ 15-342, 15-343 and 15-350

Section 15-342(a) of the Code (Conditions for issuance of dock construction permits) requires, in pertinent part, "The dock shall not adversely affect the rights of other persons and property owners' use of, and access to, the water body." Allowing this dock to be constructed as proposed would result in negatively impacting and impeding any future contemplated use (upon obtaining the applicable permit approvals) of the Phillips access to the lake from their shoreline along their Kelso Blvd. property. The Phillips property is not subject to a conservation easement, The Applicant's property is.

As proposed, and approved of by the EPC, the Applicant's dock can be constructed to lie within 1.1 ft., approximately 13 inches, of the Phillips property. This is not a waiver of 1.1 ft. It is a waiver of 23.9 ft. from the required 25 ft. setback. As proposed, and approved of by the EPC, the Applicant's dock is 1 ft. away from the Merk projected property line. This means the Applicant has been given a Waiver to disregard the required 25 ft. setback distance from the adjacent property owners by 96%. A waiver of this magnitude is in total disregard to the County Code, a code, which allows for a waiver to be granted when it is reasonable and appropriate. Certainly not to the detriment of the adjacent property owners.

Code § 15-348(b) of the Code (Additional conditions of permits for private docks) provides in part, "On lots or parcels having a shoreline frontage of **seventy-five (75) feet** or greater, docks shall have a *minimum* side setback of **twenty-five (25) feet** from the projected property line, unless such requirement is reduced by an *appropriate* waiver which shall be reviewed by the environmental protection division (Emphasis added). Additionally, this same section provides, "Waivers from side-setback requirements may be granted by the environmental protection officer if a notarized *letter of no objection* to the waiver is received *from the shoreline property owner abutting the applicant's property line affected by the waiver*" (Emphasis added).

Neither Phillips nor Merk (owners of the properties abutting the Applicant's property, properties that will be adversely affected as a result of the Waiver) provided a letter of no objection. Without the letters of no objection from Phillips and Merk, the Applicant was required to apply for a waiver from the minimum 25 ft. side setback requirement.

Code § 15-350(a)(2)(2) of the Code (Variance and waiver), in pertinent part, provides that "[t]he applicant shall also describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners. As proposed, and per the findings of the County's professional staff, the Orange County Environmental Protection Division, the Applicant failed to meet the required criteria to allow for the Waiver to have been granted. As stated clearly in the Interoffice Memorandum, prepared for the EPC's February 24, 2021 meeting, David J. Jones, P.E., CEP, Manager, EPD, "Staff has evaluated the waiver request for compliance with the criteria for approval. The recommendation of the Environmental Protection Officer is to *deny the waiver to Section 15-343(b)* (side setback) based on a finding that the *applicant has not demonstrated that there will be no negative effect on the abutting shoreline owners pursuant to Section 15-350(a)(2)(2)*, as objections have been received (Emphasis added).

This same memorandum provided the following action request to the EPC, "Acceptance of the findings and recommendation of the Environmental Protection Officer, and make a finding that *the request for waiver is not consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2)(2)* and recommend *denial of the request for waiver to Section 15-343(b)* to reduce the side setback distance for the Majid Heydari Dock Construction Permit BD-20-04-070. District 1" (Emphasis added).

Per the survey submitted by the Applicant, the Applicants property has a shoreline of 129 ft. Therefore, the minimum setbacks of 25' from the adjacent property owners should not be an issue. But is it. During the EPC meeting wherein the Waiver was approved, an EPC member asked if the boat dock could be built without the requested waiver. The answer provided by EPD staff was no because the Applicant's shoreline length wouldn't allow it. In other words, while the survey depicts a 129 ft. shoreline, the actual frontage area (useable length) is significantly smaller. So small that the Applicant would not even be able to meet the criteria under the Code for properties with a shoreline of less than 75 ft. (i.e. 10 ft. setbacks). No, in this case, the setback being requested is 13 inches from the Phillips property and 12 inches from the Merk property. So small that the Applicant cannot meet the criteria of a marginal dock under the State regulations.

Environmental Protection Division (EPD)

March 3, 2021

Page 5

As noted by one of the EPC members prior to the vote approving the Waiver, the Applicant's actual frontage is a very, very small piece of property, "[I]f you've got that small a piece, it's kind of hard to not infringe on someone else." Exactly.

As provided by the EPD staff and recognized by one of the EPC members, the Applicant has failed demonstrate that there will be no negative effect on the abutting shoreline owners pursuant to Section 15-350(a)(2)(2). While the shoreline as set forth on the Applicant's survey provides a length of 129 ft., the actual usable frontage, as confirmed by the EPD, is significantly less than 129 ft. The Waiver approved of by the EPC shows total disregard for Phillips and Merk, whose properties will be adversely impacted unless the County reverses the decision of the EPC and denies the Waiver.

We APPEAL the decision of the EPC and respectfully ask that the environmental protection officer to schedule this matter before the Board of County Commissioners. Phillips and Merk preserve any and all rights, including additional grounds for appeal, pursuant to all applicable laws.

Sincerely,


Anna H. Long

Attachment

Enclosure: Check No.: 108342, Appeal Fee

cc: James and Dian Phillips
Gregory and Daniela Merk
Commissioner Nicole H. Wilson, District 1 (via email: district1@ocfl.net)
Lee-Alyse Perry, Senior Aide to Commissioner Wilson (via email: Lee.Perry@ocfl.net)